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Paper No. 58

COATS & BENNETT, PLLC
P O BOX 5
RALEIGH NC 27602

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Bengt Y. Persson, et al.
Application No. 08/384,456
Filed: February 2, 1995
For: **MOBILE ASSISTED HANDOVER
USING CDMA**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed September 2, 2004 to withdraw holding of abandonment pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The petition is **GRANTED**.

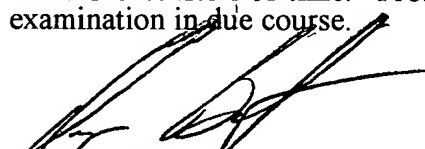
The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed October 24, 2003. A Notice of Abandonment was mailed on August 25, 2004.

Petitioner asserts that a proper response was timely filed on January 26, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on January 26, 2004.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.P.T.O. of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition along with the petition for three months extension of time. From there, the file will be forwarded to the examiner for further examination in due course.


Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications